

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STANISLAV LEVIN,

Plaintiff,

-v-

CREDIT SUISSE INC., *et al.*,

Defendants.

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No. 11 Civ. 5252 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

The Court is in receipt of the following submissions: (1) a letter from Plaintiff, dated January 17, 2012, requesting leave to file a Second Amended Complaint and attaching his proposed filing; and (2) a letter from Defendant Metropolitan Life Insurance Co. (“MetLife”), dated January 23, 2012, seeking leave to file a motion to dismiss and guidance from the Court concerning which Complaint is operative. Additionally, MetLife asserts in its letter that Plaintiff has served discovery requests that are “unduly burdensome and not likely to lead to the discovery of admissible evidence.”

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, a court should freely give leave to amend a pleading “when justice so requires.” Fed. R. Civ. P. 15(a)(2). Because no Defendants opposed Plaintiff’s proposed amendment, IT IS HEREBY ORDERED THAT Plaintiff may file a Second Amended Complaint consistent with the proposed pleading submitted with his January 17, 2012 letter no later than January 27, 2012.

IT IS FURTHER ORDERED THAT, should MetLife wish to proceed with its contemplated motion to dismiss, it shall submit a new pre-motion letter no later than February 6, 2012. MetLife’s letter shall elaborate on MetLife’s contemplated motion to dismiss *all* causes of

action in the Second Amended Complaint in light of its previously asserted intent to move only with respect to the claims other than Plaintiff's ERISA § 502(a)(1)(B) claim. Plaintiff shall submit a responsive pre-motion letter no later than February 9, 2012.

However, as stated on the record and in the Court's January 10, 2012 Scheduling Order, discovery shall proceed since MetLife is obliged to produce some discovery as a third party to Plaintiff's claims against Defendants Credit Suisse and Aon Hewitt regardless of the outcome of its own contemplated motion. To the extent that there are disputes about overreaching discovery, the parties shall submit a joint letter consistent with the Court's Individual Practices.

SO ORDERED.

DATED: January 24, 2012
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE